IN THE UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF TEXAS TYLER DIVISION

DAVID SHAW	§	
V.	§	CIVIL ACTION NO. 6:17cv648
DIRECTOR, TDCJ-CID	§	

MEMORANDUM ADOPTING REPORT AND RECOMMENDATION OF THE UNITED STATES MAGISTRATE JUDGE AND ENTERING FINAL JUDGMENT

The Petitioner David Shaw, proceeding *pro se*, filed this application for the writ of habeas corpus under 28 U.S.C. §2254 complaining of the legality of prison disciplinary action taken against him during his confinement in the Texas Department of Criminal Justice, Correctional Institutions Division. This Court referred the matter to the United States Magistrate Judge pursuant to 28 U.S.C. §636(b)(1) and (3) and the Amended Order for the Adoption of Local Rules for the Assignment of Duties to United States Magistrate Judges.

Shaw complained of a disciplinary conviction for the offense of being out of place, for which he received punishments of 45 days of cell and commissary restrictions and remaining in Line Class III. He did not lose any good time.

After review of the pleadings, the Magistrate Judge issued a Report concluding that Shaw failed to show that the punishments imposed upon him as a result of the disciplinary case at issue implicated any constitutionally protected liberty interests. *See Sandin v. Conner*, 515 U.S. 472, 484, 115 S.Ct. 2293, 132 L.Ed.2d 418 (1995); *Malchi v. Thaler*, 211 F.3d 953, 959 (5th Cir. 2000). The Magistrate Judge therefore recommended that the petition be dismissed and that Shaw be denied a certificate of appealability *sua sponte*.

Shaw received a copy of the Magistrate Judge's Report on December 20, 2017, but filed no

objections thereto; accordingly, he is barred from de novo review by the District Judge of those

findings, conclusions, and recommendations and, except upon grounds of plain error, from appellate

review of the unobjected-to proposed factual findings and legal conclusions accepted and adopted

by the district court. Douglass v. United Services Automobile Association, 79 F.3d 1415, 1430 (5th

Cir. 1996) (en banc).

The Court has reviewed the pleadings in this cause and the Report of the Magistrate Judge.

Upon such review, the Court has determined that the Report of the Magistrate Judge is correct. See

United States v. Wilson, 864 F.2d 1219, 1221 (5th Cir.), cert. denied, 492 U.S. 918, 109 S.Ct. 3243

(1989) (where no objections to a Magistrate Judge's Report are filed, the standard of review is

"clearly erroneous, abuse of discretion and contrary to law.") It is accordingly

ORDERED that the Report of the Magistrate Judge (docket no. 5) is **ADOPTED** as the

opinion of the District Court. It is further

ORDERED that the above-styled application for the writ of habeas corpus is **DISMISSED**

WITH PREJUDICE. It is further

ORDERED that the Petitioner David Shaw is **DENIED** a certificate of appealability sua

sponte. Finally, it is

ORDERED that any and all motions which may be pending in this action are hereby

DENIED.

SIGNED this the 14 day of February, 2018.

Thad Heartfield

United States District Judge

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